



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2017-0335; FRL-9000-01-OCSP]

Pseudomonas Fluorescens Strain ACK55; Exemption from the Requirement of a Tolerance; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a final rule in the *Federal Register* of September 28, 2020, establishing an exemption from the requirement of a tolerance for residues of pseudomonas fluorescens strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices. This exemption was requested by the IR-4 Project under the Federal Food, Drug, and Cosmetic Act (FFDCA). That document identified a codified section that had already been assigned in another final rule that was issued in the *Federal Register* of September 25, 2020. This document corrects the final regulation by identifying a new codified section.

DATES: This final rule correction is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0335, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

A list of potentially affected entities is included in the final rule issued in the *Federal Register* of September 28, 2020 (85 FR 60716) (FRL-10013-27).

II. What Does this Technical Correction Do?

EPA issued a final rule in the *Federal Register* of September 28, 2020 (85 FR 60716) (FRL-10013-27) that established an exemption from the requirement of a tolerance for residues of *pseudomonas fluorescens* strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices. While establishing this exemption from the requirement of a tolerance in response to a petition from the IR-4 Project, EPA inadvertently identified a codified section that had already been assigned in another final rule that was issued in the *Federal Register* of September 25, 2020 (85 FR 60366) (FRL-10013-33). Unable to use the codified number identified by EPA in the final rule issued in the *Federal Register* of September 28, 2020, the Code of Federal Regulations (CFR) was revised to include the following text:

Editorial Note: At 85 FR 60718, Sept. 28, 2020, a second §180.1379 was added; however, the amendment could not be incorporated because the section already exists.

Therefore, with this final rule, EPA is identifying 40 CFR 180.1380 as the codified section for the exemption from the requirement of a tolerance for residues of *pseudomonas*

fluorescens strain ACK55 in or on all food commodities when used in accordance with label directions and good agricultural practices that was established in the final rule issued in the *Federal Register* of September 28, 2020 (85 FR 60716) (FRL-10013-27).

III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because EPA inadvertently duplicated an existing codified section. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit IV. in the final rule of the September 28, 2020.

V. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 24, 2021.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR Chapter I as follows:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL
RESIDUES IN FOOD**

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In subpart D, add §180.1380 to read as follows:

§ 180.1380 *Pseudomonas fluorescens* strain ACK55; exemption from the requirement of a tolerance.

Residues of *Pseudomonas fluorescens* strain ACK55 are exempt from the requirement of a tolerance in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2021-22105 Filed: 10/8/2021 8:45 am; Publication Date: 10/12/2021]